

INDEX.

ABANDONMENT. See Admiralty, 2.

ABATEMENT. See Jurisdiction, II, (2), 4.

ACQUIESCENCE. See Boundaries, 3.

ADMIRALTY. See Anti-Trust Acts, 1, 4; Constitutional Law, Page.
IV, 6.

1. *Personal Injuries.* Term "seamen" in Merchant Marine Act includes stevedores when engaged in maritime work of stowing cargo. *Int. Stevedoring Co. v. Haverty*..... 50

2. *Wrecks.* When abandonment of not presumed. *Eastern Transp. Co. v. U. S.*..... 675

3. *Id.* Leaving unmarked in channel, maritime tort and crime under Act of 1899. *Id.*

4. *Id.* Liability of United States therefor under Suits in Admiralty Act, both *in rem* and *in personam.* *Id.*

5. *Deviation*, when inexcusable, renders vessel liable for any damage to cargo. *S. S. Willdomino v. Citro Chem. Co.*.... 718

ADVICE AND CONSENT. See Constitutional Law, II, 1, 5.

AGENCY. See Anti-Trust Acts 5, 9; Railroads; Trading with the Enemy Act, 4-7.

ALIEN PROPERTY CUSTODIAN. See Trading with the Enemy Act, 8, 11.

ALIENS. See Trading with the Enemy Act, 15-16.

ALTERNATIVE PROMISES. See Contracts, 1.

ANTI-TRUST ACTS:

1. *Clayton Act*, §§ 4 and 16, authorize suit by individual on own behalf and others similarly situated to enjoin maintenance of combination in violation of § 1 of Anti-Trust Act. *Anderson v. Shipowners Assn.*..... 359

2. *Allegation of Specific Intent*, in bill unnecessary where restraint on interstate or foreign commerce necessary consequence of combination alleged. *Id.*

ANTI-TRUST ACTS—Continued.

Page.

3. *Object of Combination*, immaterial if it restrains commerce. *Id.*

4. *Shipowners Association*, formed to regulate and control employment of seamen on ships engaged in interstate and foreign commerce is a burden upon that commerce, therefore violative of Anti-Trust Act. *Id.*

5. *Sale of Patented Electric Lamps* by patentee and manufacturer at fixed prices, through dealers under agency contracts, not restraint of trade. *U. S. v. Gen. Elec. Co.* 476

6. *Id. Size of Scheme*, did not bring it within Anti-Trust Act. *Id.*

7. *Id. Comprehensiveness*, of patentee's method not necessarily evidence of illegality of scheme. *Id.*

8. *Id. Control of Prices*, by owner of article or patentee. *Id.*

9. *Id. Disposal Direct to Consumer*, of patented article by manufacturer, through agents, at fixed price, not violative of either common law or Anti-Trust Act. *Id.*

10. *Id. Sales by Licensee*, of patented article at prices fixed by licensor, legal. *Id.*

11. *Conspiracy*, of manufacturers of mill-work, building contractors, and union carpenters, to check competition from non-union-made mill-work coming from other States, to accomplish which the manufacturers and contractors were to employ only union carpenters who would refuse to install non-union mill-work, is violation of Anti-Trust Act. *U. S. v. Brims* 549

12. *Id. Inclusion of Intrastate Commerce*, does not condone restraint of interstate commerce. *Id.*

13. *Federal Trade Commission*. Power under Clayton Act, §§ 7-11, to require corporation to divest itself of stock of other corporation in such wise as will restore competition, but not to require restoration of competitor's property already secured through stock control before Commission took action. *Fed. Trade Comm. v. Western Meat Co.* 554

APPEAL. See Jurisdiction, II, (1), 1; II, (2), 1-2; II, (3), 7-8; Procedure, 11-12.

APPOINTMENT, POWER OF. See Constitutional Law, VII, 3; Taxation, II, 2.

Property, passes from original donor to appointee.

Wachovia Bank v. Doughton. 567

- Page.
- APPOINTMENTS TO OFFICE.** See Constitutional Law, I, 1-3; II, 1-5.
- ASSIGNMENT OF ERROR.** See Jurisdiction, II, (1), 3; II, (2), 3.
- ATTORNEY GENERAL.** See Costs.
- AUTOMOBILES.** See Constitutional Law, VII, 2, 17-19; Forfeiture; Penalty; Prohibition Act, 6.
- BOILER INSPECTION ACT.** See Interstate Commerce Acts, II, 4.
- BONDS.** See Constitutional Law, I, 5; Taxation, II, 3.
- BOUNDARIES.** See Judgments.
1. *Between Texas and Territories of United States.* Conclusively determined to be line of true 100th meridian from a fixed point, but precise location of meridian was left open in "Greer County Case." *Oklahoma v. Texas*..... 21
 2. *Between Oklahoma and Texas.* (1) The boundary is the line of the true 100th meridian; (2) it has not been established by previous surveys; (3) it should now be located and marked by commission subject to Court's approval. *Id.*
 3. *Acquiescence in and Recognition,* of line between two governments run out, located and marked upon the earth, for many years, is conclusive, even though it varies somewhat from the correct course. *Id.*
 4. *Id. Must be continuous. Id.*
 5. *Michigan and Wisconsin.* Decree fixing boundary between. *Michigan v. Wisconsin*..... 398
- BRIEFS.** See Procedure, 2.
- BUILDING PERMIT.** See Constitutional Law, VII, 12.
- BURDEN OF PROOF.** See Claims, 1.
- CANALS.** See Interstate Commerce Acts, II, 1-3.
- CARGO.** See Admiralty, 5.
- CARRIERS.** See Admiralty, 5; Railroads.
- CHOCTAWS.** See Claims, 5.

CLAIMS. See Procedure; Railroads.

Page.

1. *Value of Service*, rendered to Government, burden of proof on claimant. *Southern Pac. Co. v. U. S.*..... 445
2. *Railroad Rates; Special Tariff*, omitting land grant deductions—contract of Government to pay not implied when its agents making shipments had no actual or constructive notice of the rate. *Id.*
3. *Interest*, not recoverable under Fifth Amendment where claimant obtained judgment merely for balance of compensation tendered him under Act of June 15, 1917, and which he had refused. *Luckenbach S. S. Co. v. U. S.*..... 533
4. *Judgment for Services*. Finding of amounts already paid and dismissal of petition, or award of additional sum, is determination that claimant is not entitled to more. *Heirs of Garland v. Choctaw Nation*..... 728
5. *Id. Opinions of Choctaw Legislature*, or its executive officers do not bind Court of Claims as to value of services rendered Choctaw Nation. *Id.*
6. *Implied Contract; Payment of Fine*, under plea of *nolo contendere* with reservation of right to reclaim money if statute declared unconstitutional created no contract with United States. *U. S. v. Gettinger*..... 734

CLAYTON ACT. See Anti-Trust Acts, 1, 13.**COMMON LAW.** See Constitutional Law, VI.**COMPENSATION.** See Trading with the Enemy Act, 3.**CONFLICT OF LAWS.** See Jurisdiction, III, 1, 4; Payment.**CONFRONTATION.** See Constitutional Law, VI.**CONSIDERATION.** See Trading with the Enemy Act.**CONSPIRACY.** See Criminal Law, 5-7.**CONSTITUTIONAL LAW:**

- I. In General, p. 741.
 - II. Executive Power, p. 741.
 - III. Judiciary, p. 741.
 - IV. Commerce Clause, p. 742.
 - V. Fifth Amendment, p. 742.
 - VI. Sixth Amendment, p. 742.
 - VII. Fourteenth Amendment, p. 743.
 - VIII. Eighteenth Amendment, p. 744.
- War Power. See V, 1, *infra*; Trading with the Enemy Act.

Page.

I. In General. See Jurisdiction; Trading with the Enemy Act.

1. *Construction*, to give effect to all words used. *Myers v. U. S.*..... 52
2. *Contemporaneous Exposition*, by First Congress, and acquiescence by the other branches. *Id.*
3. *Strict Construction*, of limitations in Art. II, § 2, which blend legislative with executive action in appointing to office and making treaties. *Id.*
4. *Elasticity of Constitution*, to cover new conditions. *Euclid v. Realty Co.*..... 365
5. *Federal Instrumentalities*. Taxation by State of income from United States bonds, indirectly, by exempting them when held by corporations and taxing only so much of stockholders' dividends as corresponds to corporate income not assessed. *Miller v. Milwaukee*..... 713
6. *State Police Statute*, declared unconstitutional only where arbitrary or unreasonable. *Graves v. Minnesota*..... 425

II. Executive Power. See Trading with the Enemy Act.

1. *Removal from Office*. Act of July 12, 1876, unconstitutional in attempt to condition President's power to remove Postmasters upon consent of Senate. *Myers v. U. S.*..... 52
2. *Id.* Power to remove, like power to appoint is executive function,—a conclusion confirmed by obligation "to take care that the laws be faithfully executed." *Id.*
3. *Id.* Power of removal is an incident of the power to appoint. *Id.*
4. *Article II, Section 1*, vesting Executive power in a President, is a grant of the power and not merely naming a department of the government. *Id.*
5. *Excepting Clause in Art. II, §2*, does not enable Congress to regulate removals of inferior officers appointed by the President with the advice and consent of the Senate. *Id.*
6. *Delegation of Power*, to President, and by President to subordinate, to determine terms of sale of seized enemy properties under Trading with Enemy Act, valid. *U. S. v. Chem. Foundation* 1

III. Judiciary. See Jurisdiction; Costs.

"*Case.*" Proceeding in Court of Appeals of District of Columbia to review decision of Commissioner of Patents refusing to cancel registration of trade mark, is administrative in

- III. **Judiciary**—Continued. Page.
 character, and decision of court dismissing appeal for want
 of jurisdiction, can not be reviewed by Supreme Court.
Postum Co. v. Fig Nut Co...... 693
- IV. **Commerce Clause.** See **Anti-Trust Acts**, 2-4; **Taxation**,
 II, 1.
 1. *State Tax*, on property moving in interstate commerce,
 void. *Hughes Bros. Co. v. Minnesota*..... 469
 2. *Continuous Journey of Logs* from woods where cut to
 destination in other state, partly by flotation and partly by
 boat, held interstate movement throughout. *Id.*
 3. *Id.* *Change of Method* from floating to carriage on ves-
 sel, did not break continuity. *Id.*
 4. *Id.* *Contract of Sale*, effect of in determining interstate
 character. *Id.*
 5. *Id.* *Possibility of Diversion* of goods in transit under
 control of owner does not destroy interstate character of
 movement. *Id.*
 6. *Instrumentalities of Commerce*, ships and those who op-
 erate them. *Anderson v. Shipowners Assn.*..... 359
 7. *Current of Commerce*, inter and intra state, at canal and
 railroad terminal, regulated by Interstate Commerce Com-
 mission. *U. S. v. N. Y. Cent. R. R.*..... 457
 8. *Regulation of Locomotive Equipment*, on interstate rail-
 roads, embraced by federal Boiler Inspection Act; state
 power superseded. *Napier v. A C. L. R. R.*..... 605
- V. **Fifth Amendment.** See **Claims**, 3.
 1. *Enemy Property.* Power to seize and appropriate with-
 out compensation. *U. S. v. Chem. Foundation*..... 1
 2. *Interest*, not recoverable under Fifth Amendment where
 claimant obtained judgment merely for the balance of com-
 pensation tendered him under Act of June 15, 1917, and
 which he had refused. *Luckenbach S. S. Co. v. U. S.*..... 533
 3. *Indictment.* Withdrawal from jury of parts unsupported
 by evidence not contrary to this Article as an amendment
 of indictment. *Salinger v. U. S.*..... 542
- VI. **Sixth Amendment.**
 1. *Right of Confrontation*, subject to same exceptions under
 Constitution as at common law. *Salinger v. U. S.*..... 542
 2. *Id.* *Hearsay Evidence.* When not departure from guar-
 anty. *Id.*

Page.

- VII. Fourteenth Amendment. See VIII, *infra*; Jurisdiction, II, (4), 3-6; III, 4; Penalty; Public Utilities, 1-5.
1. *Test of Due Process*, does not require conformity to rules of state statutes. *Hebert v. Louisiana*..... 312
 2. *Taxation. Automobile Insurance*, under blanket policy made in another state taxable and subject to regulation in state where it becomes effective through sale of car by owning distributor or retailer. *Palmetto Ins. Co. v. Conn.*... 295
 3. *Taxation*, of transfer by Power of Appointment of property outside of State, void. *Wachovia Bank v. Doughton*.. 567
 4. *Foreign Corporation. Unconstitutional Condition* may not be imposed upon right to continue business in State. *Hanover Ins. Co. v. Harding*..... 494
 5. *Id. Renewal of License* may be conditioned upon past compliance with valid laws. *Id.*
 6. *Id. Equality of Taxation*. Classification with similar domestic corporations is test. *Id.*
 7. *Id. Illinois Occupation Tax. Held* discriminatory and denial of equal protection of laws. *Id.*
 8. *Rate fixing Order*. Principles governing valuation of plant, rate of return, etc. *McCardle v. Water Co.*..... 400
 9. *Confiscatory Gas Rate*. See *Ottinger v. Gas Co.*..... 577
Ottinger v. Brooklyn Union Co...... 579
 10. *Strikes, Prevention of. Kansas Industrial Relations Act*, forbidding inducement of others to quit work with intent to hinder mining and making it felony, is within power of State. *Dorchy v. Kansas*..... 306
 11. *Strikes, Right to Call* not constitutional where purpose to coerce employer to pay disputed claim of former employee. *Id.*
 12. *Zoning Ordinance*. Suit to enjoin, when need not be preceded by application under for building permit. *Euclid v. Realty Co*..... 365
 13. *Id. Kinds and Uses of Buildings*, in cities,—legislative control of upheld where not exercised arbitrarily or unreasonably. *Id.*
 14. *Practice of Dentistry*. State may require applicant for license to produce "diploma from some dental college of good standing." *Graves v. Minnesota*..... 425
 15. *Manufacture of Liquor*. Power of State to declare criminal not derived from Eighteenth Amendment. *Hebert v. Louisiana*..... 312

VII. Fourteenth Amendment—Continued.

Page.

16. *Id. Double Jeopardy*. Making liquor punishable by State although same act punishable under federal law. *Id.*
17. *Forfeiture of Property* used in violation of Kansas prohibition law extends to property of innocent owner who entrusted possession and use to wrongdoer. *Van Oster v. Kansas*..... 465
18. *Id. Police Power*, limitations of under Fourteenth Amendment compared with those of federal taxing power under Fifth Amendment. *Id.*
19. *Id. Broader Scope* of state statute as compared with § 26, Nat. Prohibition Act, does not invalidate former. *Id.*

VIII. Eighteenth Amendment. See VII, *supra*; Prohibition Act.

1. *Prescription of Liquor*. Restriction of one pint to same person within any period of ten days, appropriate legislation under Amendment. *Lambert v. Yellowley*..... 531
2. *Id. Medicinal Value*. Belief of physician as to, subordinate to powers of Congress under Amendment. *Id.*
3. *State Enforcement Act*, not invalidated by being more drastic than Nat. Prohibition Act. *Van Oster v. Kansas*.. 465

CONSTRUCTION. See Constitutional Law, I, 1.

CONTRACTS. See Claims; Constitutional Law, IV, 4; VII, 1; Indians; Payment; Railroads.

1. *Alternative Promises*. Impossibility of performance of one alternative does not, without more, relieve promisor from performing the other. *Yankton Indians v. U. S.*..... 351
2. *Implied Contract to Pay Special Rate*, can not arise when rate invalid and not known to government agents making shipment. *Southern Pac. Co. v. U. S.*..... 445
3. *Implied Contract; Payment of Fine*, under plea of *nolo contendere* with reservation of right to reclaim money if statute declared unconstitutional created no contract with United States. *U. S. v. Gettinger*..... 734

CORPORATIONS See Anti-Trust Acts, 13; Constitutional Law, VII, 4-7; Jurisdiction, II, (4), 5-6; Taxation, II, 3; Trading with the Enemy Act, 9, 12.

COSTS:

1. *Immunity of United States*, cannot be waived by Attorney General. *U. S. v. Chem. Foundation*..... 1

COSTS—Continued.

Page.

2. *Id.* Stenographic and Printing Fees. In absence of statutory authority, United States cannot be charged. *Id.*

3. *Id.* Equity Rule 50 does not allow against United States. *Id.*

COURT OF CLAIMS. See Claims, 4-5; Jurisdiction, II, (3); IV; Procedure, 6-7, 11-12.

COURT OPINIONS. See Judgments; Jurisdiction, III, 7.

CRIMINAL LAW. See Admiralty, 3-4; Indictment; Jurisdiction, II, (2), 4; II, (4), 4; III, 1, 5.

1. *Sale by Public Officer to Corporation*, in which he is also an officer. Crim. Code, § 41, inapplicable to transaction whereby enemy patents were transferred for less than their commercial value to corporation of which Alien Property Custodian was president, and other government officials representatives, the purpose of the corporation being to receive and control the patents for the benefit of the public. *U. S. v. Chem. Foundation*..... 1
2. *Nolo Contendere*. After accepting plea of, court may impose prison sentence. *Hudson v. U. S.*..... 451
3. *Scheme to Defraud*, by use of mails, obtaining money through threats of murder or serious bodily harm not included. *Fasulo v. U. S.*..... 620
4. *Conspiracy; Limitations*. Indictment under § 37, Cr. Code, for conspiracy to defraud United States by false income tax return, subject to three year period of Rev. Stat. § 1044, not to limitation for offenses under Internal Revenue Laws. *U. S. v. McElvain*..... 633
5. *Id. Six Year Period*. Confined to cases clearly within purpose of proviso in Act of November 17, 1921. *Id.*
6. *Id.* Proviso, if applicable to conspiracies under Cr. Code § 37, is limited to those to commit substantive offenses. *Id.*
7. *Plea in Abatement*, does not become plea in bar by reason of running of statute of limitations before it was sustained. *U. S. v. Storrs*..... 652
8. *Obscene Matter*. Cr. Code § 211, does not include letters advertising home for care of pregnant unmarried women. *Dysart v. U. S.*..... 655

CUSTOMS DUTIES. See Philippine Islands, 1.

DAMAGES. See Admiralty, 5.

DAYLIGHT SAVING ACTS:

	Page.
Massachusetts and Federal Acts, not inconsistent. <i>Mass.</i>	
<i>State Grange v. Benton</i>	525

DEBT. See Payment; Trading with the Enemy Act, 15-16.

DECREE. See Judgments.

DELEGATION OF POWER. See Constitutional Law, II, 6.

DEMURRAGE. See Interstate Commerce Acts, I, 2.

DENTISTRY. See Constitutional Law, VII, 14.

DEVIATION. See Admiralty, 5.

DIVIDENDS. See Taxation, II, 3.

EMINENT DOMAIN. See Trading with the Enemy Act, 3.

EQUITY. See Jurisdiction, I, 2; II, (2), 5; Trading with the Enemy Act, 11-12.

EQUITY RULES. See Costs, 3; Jurisdiction, II, (2), 5; Procedure, 3.

ESTOPPEL. See Judgments; Patents for Inventions, 3-4.

EVIDENCE. See Constitutional Law, VI, 2; Forfeiture, 2; Public Utilities, 2; Trading with the Enemy Act, 7;

1. *Valuation of Public Utility; Judicial Notice*, of increasing cost of labor and materials since the war. *McCardle v. Water Co* 400
2. *Id. Expert Testimony*, as to actual depreciation preferable to theoretical estimates. *Id.*

EXCEPTION. See Jury, 2; Jurisdiction, II, (2), 3.

EXCHANGE. See Payment.

FINDINGS. See Jurisdiction, II, (3), 3-8; IV, 1; Procedure, 6-12.

FINES. See Contracts, 3; Jurisdiction, III, 8.

FORFEITURE. See Constitutional Law, VII, 17-19; Jurisdiction, III, 2-3; Penalty; Prohibition Act, 2, 6.

1. *Seizure*, by unauthorized person, effect of adoption of by United States. *U. S. v. Ford Coupe*..... 321
2. *Quashing Libel on Motion*. Allegations of libel taken as true and those of claim not considered, on review. *Id.*

FORFEITURE—Continued.

Page.

3. *Rev. Stats. § 3450*. Forfeiture under of vehicle used to conceal liquor to defraud United States of tax; rights of innocent owner of vehicle divested. *Id.*
4. *Id. Prohibition Act*. Innocent owner not protected under § 26, Prohibition Act, where vehicle forfeited under § 3450 *Rev. Stats. Id.*
5. *Id. Otherwise*, when driver prosecuted to effect for violation of Prohibition Act; forfeiture must then be under that Act, saving right of innocent owner. *Port Gardner Co. v. U. S.*..... 564

FRAUD. See Criminal Law, 3.**GAS COMPANIES.** See Constitutional Law, VII, 9.**INDIANS.** See Claims, 4-5.

- Yankton Tribe*, rights of respecting Pipestone Reservation.
 See *Yankton Indians v. U. S.*..... 351

INDICTMENT. See Criminal Law, 4; Jurisdiction, III, 5.

1. *Withdrawal of Parts*, from jury, not an amendment of indictment. *Salinger v. U. S.*..... 542
2. *Id. Constitutional Guaranty*, not infringed. *Id.*

INFRINGEMENT. See Patents for Inventions, 4.**INJUNCTION.** See Anti-Trust Acts, 1; Constitutional Law, VII, 12; Jurisdiction, I, 2; II, (2), 2; III, 4, 6; Prohibition Act, 3.**INTEREST.** See Claims, 3.**INSURANCE.** See Constitutional Law, VII, 2; Life Insurance.**INTERNAL REVENUE.** See Criminal Law, 4-5; Forfeiture; Taxation, I, 1-2.**INTERNATIONAL LAW.** See Boundaries; Payment; Trading with the Enemy Act.**INTERSTATE COMMERCE ACTS.** See Anti-Trust Acts.**I. Carrier and Shipper:**

1. *Special Tariff for Government*, illegal and affords no constructive notice. *Southern Pac. Co. v. U. S.*..... 445
2. *Demurrage*, under provisions of tariff as to pooling and exchange of loaded coal cars, pursuant to arrangement of shippers. *Emmons Coal Co. v. Ry. Co.*..... 709

II. Powers and Proceedings of Commission.	Page.
1. <i>Rail and Water Terminal</i> . Jurisdiction of Commission invoked by State owning canal to compel railroad to provide transportation service from canal terminal to points on its line and connections. <i>U. S. v. N. Y. Cent. R. R.</i>	457
2. <i>Id.</i> <i>Presence of Water Carrier</i> , not essential under § 6, par. 13, where rail connection already exists and order directs transportation service be furnished at railroad's expense. <i>Id.</i>	
3. <i>Id.</i> Order for interchange may embrace entire current of commerce, though partly intrastate. <i>Id.</i>	
4. <i>Boiler Inspection Act</i> , includes regulation of locomotive equipment on interstate highways by Interstate Commerce Commission, and precludes state legislation. <i>Napier v. A. C. L. R. R.</i>	605
5. <i>Unjust Discrimination in Rates</i> , conclusive effect of Commission's finding. <i>Virginian Ry. v. U. S.</i>	658
6. <i>Id.</i> Purpose of carrier immaterial. <i>Id.</i>	
7. <i>Id.</i> Order for abatement, to what carriers directed. <i>Id.</i>	
8. <i>Id.</i> <i>Through Rates</i> . Special finding of public interest unnecessary. <i>Id.</i>	
9. <i>Stay of Commission's Order</i> , pending appeal from decree refusing injunction. <i>Id.</i>	

INTIMIDATION. See **Criminal Law**, 4.

INTOXICATING LIQUOR. See **Constitutional Law**, VII, 15-19; X. Forfeiture, 2-3; Penalty; Prohibition Act.

JEOPARDY. See **Constitutional Law**, VII, 16.

JUDGMENTS. See **Boundaries**; **Claims**, 4-5; **Prohibition Act**, **Trading with the Enemy Act**, 16.

Judgment on foreign debt. See **Payment**.

Estoppel by decree of patent infringement. See **Patents for Inventions**.

Effect of Decree, determined by examination of issues made and intended to be submitted and decided, not by isolated passage in opinion considering rights of parties. *Oklahoma v. Texas*..... 21

JUDICIAL NOTICE. See **Jurisdiction**, II, (4), 1.

JURISDICTION:

I. Generally, p. 749.

II. Jurisdiction of this Court:

Page.

- (1) Over Circuit Court of Appeals, p. 749.
- (2) Over District Court, p. 750.
- (3) Over Court of Claims, p. 750.
- (4) Over State Courts, p. 751.
- (5) Over Court of Appeals, District of Columbia, p. 751.

III. Jurisdiction of District Court, p. 751.**IV. Jurisdiction of Court of Claims, p. 752.****V. Jurisdiction of State Courts, p. 752.**See **Admiralty; Costs; Forfeiture, 2; Procedure.**

Administrative Decision. See II, (5), 1.

Certiorari. See II, (1), 1.

Equity. See I, 2.

Federal and Local Questions. See I, 1, 3; II, (4), 3-6.

Injunction. See II, (2), 2; III, 4.

Jurisdiction or Merits. See I, 2.

Mandamus. See II, (2), 4.

New Trial. See II, (3), 4.

Transferred Cause. See II, (1), 2.

Venue. See III, 5.

I. Generally.

- 1. *Construction of State Law*, function of federal courts in regard to. *Palmetto Ins. Co. v. Conn.*..... 295
- 2. *Lack of "Jurisdiction"* in equity, and lack of jurisdiction, i. e., power in the court, distinguished. *Mass. State Grange v. Benton* 525
- 3. *Constitutional Question*, must be substantial to support federal jurisdiction. *Salinger v. U. S.*..... 542

II. Jurisdiction of this Court.**(1) Over Circuit Court of Appeals.**

- 1. *Appeal not Certiorari*, for review of decree dismissing bill by United States to set aside sales under Trading with the Enemy Act. *U. S. v. Chem. Foundation*..... 1
- 2. *Transfer of Cause* from this Court to Circuit Court of Appeals under Acts of September 14, 1922 and February 13, 1925. *Salinger v. U. S.*..... 542
- 3. *Scope of Review and Remand*. Upon reversal rejecting grounds on which court below acted, this Court need not examine additional assignments of error which court below did not consider but may remand case to that court for their decision. *U. S. v. Brims*..... 549

II. Jurisdiction of this Court—Continued.

(2) *Over District Court.*

Page.

1. *Direct Appeal* not allowable under Jud. Code, § 238, on constitutional grounds alone, but only in cases specifically enumerated in Act or parts of acts comprising that section as amended. *Moore v. Fidelity Co.*..... 317
2. *Id. Permanent Injunction.* § 266, Jud. Code, applicable only where application was made for interlocutory injunction and case was heard before three judges. *Id.*
3. *Failure to Note Exception*, to inquiry as to jury's numerical division does not preclude this Court from correcting error. *Brasfield v. U. S.*..... 448
4. *Criminal Appeals Act.* Plea in Abatement does not become plea in bar by reason of running of statute of limitations before it was sustained. *U. S. v. Storrs.*..... 652
5. *Jud. Code, § 234.* *Mandamus* may issue directly to inquire into causes of assigning patent causes to master in alleged disconformity to Equity Rules. *Los Angeles Corp. v. James* 701

(3) *Over Court of Claims.*

1. *Scope of Review.* Limits placed by Congress do not deprive defeated claimants of due process of law. *Luckenbach S. S. Co. v. U. S.*..... 533
2. *Id. Confined to Questions of Law* shown by record when made up as rules direct. *Id.*
3. *Additional Findings.* Case remanded for only where need shown on face of findings, or when examined in connection with pleadings. *Id.*
4. *New Trial.* Order overruling motion for, not reviewable. *Id.*
5. *Finding of Value* of property is finding of fact, not reviewable. *Id.*
6. *Requests for Findings.* Claimant not in position to press when have not been tendered to Court of Claims as required by rule. *Id.*
7. *Appeal*, from Court of Claims pending motion for new trial and amended findings, cured by allowance after denial of motion. *Id.*
8. *Id. Time For.* Time does not run while motion for new trial and amended findings pending. *Id.*

II. Jurisdiction of this Court—Continued.

(4) *Over State Courts.*

Page.

1. *Facts Not in Record* or judicially noticed can not be considered. *Dorchy v. Kansas*..... 306
2. *Record*. Facts of another case not incorporated by reference made to it as controlling, by state court. *Id.*
3. *Determination of Separability* by state court as to parts of state statute, other than those declared invalid by this Court, is binding. *Id.*
4. *Construction of State Statute*. If consistent with fundamental principles of liberty and justice which lie at base of our civil and political institutions, is not reviewable here as denial of due process under the Fourteenth Amendment. *Hebert v. Louisiana*..... 312
5. *Id. Local Question*. Construction, by state supreme court, of law taxing foreign corporations as a privilege rather than a property tax, binding on this Court. *Hanover Ins. Co. v. Harding*..... 494
6. *Federal Question*. Applicability of Equal Protection Clause and whether or not state tax on foreign corporations is discriminatory decided independently by this Court. *Id.*

(5) *Over Court of Appeals, District of Columbia.*

1. *Administrative Matter*. Proceeding under § 9, Trade Mark Act not "case" within meaning of Art. III of Constitution, therefore not reviewable. *Postum Co. v. Fig Nut Co*..... 693
2. *Id.* Appeal from Commissioner of Patents decision. Dismissal for want of jurisdiction, not reviewable. *Id.*

III. Jurisdiction of District Court.

1. *Jud. Code*, § 256, giving exclusive jurisdiction of offenses, relates only to offenses under federal law and does not affect state court's authority over same act as offense under state law. *Hebert v. Louisiana*..... 312
2. *Forfeiture of Motor Boat* under § 26, Tit. II, Nat. Prohibition Act, maintainable even if seizure was by unauthorized person, since subsequent adoption of seizure by government is retroactive. *Dodge v. U. S.*..... 530
3. *Id.* Jurisdiction secured by fact that *res* was in power of prohibition director when libel filed. *Id.*

III. Jurisdiction of District Court—Continued.

Page.

4. *Injunction. Should Not Issue* to restrain enforcement of state law save in cases reasonably free from doubt and when necessary to prevent great and irreparable injury. *Mass. State Grange v. Benton*..... 525
5. *Place of Trial. Indictment* triable in district where delivery of letter mailed in furtherance of scheme to defraud was effected. *Salinger v. U. S.*..... 542
6. *Staying Order of Interstate Commerce Commission*, pending appeal from decree refusing injunction. *Virginian Ry. v. U. S.*..... 658
7. *Opinion*, should be filed by District Court when necessary to explain decision. *Id.*
8. *Suit to Recover Fine* imposed under statute later declared unconstitutional, not within court's jurisdiction. *U. S. v. Gettinger & Pomerantz*..... 734

IV. Jurisdiction of Court of Claims. See Claims.

1. *Findings*. See *Luckenbach S. S. Co. v. U. S.*..... 533
2. *Motion for New Trial and Allowance of Appeal. Id.*

V. Jurisdiction of State Courts. See III, 1, *supra*; Constitutional Law, IX, 14-18.

Persons Under Federal Indictment and on bail awaiting trial for violations of prohibition law, may be arrested and tried by state court for same acts. *Hebert v. Louisiana*..... 312

JURY:

1. *Inquiry by Trial Judge*, as to numerical division of jury, *per se* ground for reversal. *Brasfield v. U. S.*..... 448
2. *Id. Failure to Note Exception*, to inquiry does not preclude this Court from correcting error. *Id.*

KANSAS INDUSTRIAL RELATIONS ACT. See Constitutional Law, VII, 10-11.

LABOR UNIONS. See Anti-Trust Acts, 11; Constitutional Law, VII, 10-11; Strikes.

LACHES:

Removal from Office. Suit for salary,—when brought in time. *Myers v. U. S.*..... 52

LAND GRANTS. See Claims, 2.

LIBEL. See Forfeiture, 2.

LICENSEE. See Anti-Trust Acts, 10.

LIFE INSURANCE:

Page.

Mutual Company. Relations to of policy holder before and after maturity of policy; and nature and taxability of legal reserve. *Duffy v. Ins. Co.*..... 613

LIMITATIONS. See **Boundaries**; **Criminal Law**, 4-7; **Jurisdiction**, II, (2), 4; II, (3), 8.

MAILS. See **Criminal Law**, 4, 9; **Jurisdiction**, III, 5.

MANDAMUS. See **Jurisdiction**, II, (2), 5; **Philippine Islands**, 3.

MARITIME TORT. See **Admiralty**, 2-4.

MARKS. See **Payment**.

MASTER. See **Jurisdiction**, II, (2), 5; **Procedure**, 3-5.

MEDICINE. See **Constitutional Law**, VIII, 1-2.

MERCHANT MARINE ACT. See **Admiralty**, 4.

MICHIGAN. See **Boundaries**, 5.

MONEY. See **Payment**.

MONOPOLY. See **Anti-Trust Acts**, 13.

NEGLIGENCE. See **Admiralty**, 1, 5.

NEW TRIAL. See **Jurisdiction**, II, (3), 4; **Procedure**, 11-12.

NOLO CONTENDERE. See **Contracts**, 3; **Criminal Law**, 2.

NOTICE. See **Claims**, 2; **Railroads**.

NUISANCE. See **Prohibition Act**, 3.

OBSCENE MATTER. See **Criminal Law**, 8.

OFFICERS. See **Constitutional Law**, II, 1-3, 5, 6; **Laches**.

OKLAHOMA. See **Boundaries**, 1-4.

OPINIONS. See **Jurisdiction**, III, 7.

PARTIES. See **Interstate Commerce Acts**, II, 1-2.

PATENTS FOR INVENTIONS. See **Anti-Trust Acts**, 5-10; **Procedure**, 4.

1. *New Element Necessarily Introduced*, may not be dropped by patentee after issue of patent to broaden claim thus narrowed. *I. T. S. Co. v. Essex Co.*..... 429

PATENTS FOR INVENTIONS—Continued.

Page

2. *Id.* *All Elements*, regarded as material where claim to combination is thus restricted. Limitations so imposed strictly construed against inventor and looked upon as disclaimers. *Id.*

3. *Doctrine of Equivalents*. Patentee may not resort to, after narrowing claim to obtain patent. *Id.*

4. *Infringement; Estoppel*. Manufacturer not bound by estoppel by virtue of decree of infringement against a dealer in which he took no part except in adjustment of damages. *Id.*

PAYMENT:

Foreign Debt. Obligation payable in Germany in marks, enforced here in dollars at exchange rate at time of judgment and not rate existing when debt matured through demand.

Deutsche Bank v. Humphrey..... 517

PENALTY. See Prohibition Act, 3.

Enforcement, by forfeiture of offending article, no constitutional objection to. *U. S. v. Ford Coupe*..... 321

PERFORMANCE. See Contracts, 1; Payment.**PERSONAL PROPERTY. See Constitutional Law, IV, 1-4; Taxation, II, 1.****PHILIPPINE ISLANDS:**

1. *Refund of Duties*. Insular collector's decision final, unless appealed to Court of First Instance. *Wright v. Ynchausti*.. 640

2. *Id.* *Re-examination of Merits*. Beyond power of Insular Auditor. *Id.*

3. *Mandamus*, requiring Auditor to perform ministerial duty of countersigning Collector's warrant. *Id.*

PHYSICIAN. See Constitutional Law, VIII, 1, 2.**PLEA. See Criminal Law, 2, 7; Jurisdiction, II, (2), 4.****PLEADING. See Anti-Trust Acts, 2; Criminal Law, 2, 7; Forfeiture, 5; Indictment; Jurisdiction, II, (2), 4; II, (3), 3.****POLICE POWER. See Constitutional Law, I, 6; VII, 13.****POSTMASTERS. See Constitutional Law, II, 1; Laches.****POST OFFICE. See Criminal Law, 3.**

PRESCRIPTION. See Boundaries, 1-4; Prohibition Act, 5. Page.

PRESIDENT. See Constitutional Law, II; Trading with the Enemy Act, 4-10.

PRESUMPTION. See Admiralty, 2; Trading with the Enemy Act.

PRICES. See Public Utilities, 1.

PROCEDURE. See Jurisdiction.

For other matters relating to Procedure, See: Admiralty; Anti-Trust Acts; Boundaries; Claims; Costs; Criminal Law; Evidence; Forfeiture; Indictment; Interstate Commerce Acts; Judgments; Jury; Laches; Patents for Inventions; Penalty; Philippine Islands; Prohibition Act; Public Utilities; Taxation; Trading with the Enemy Act.

1. *Scope of Review.* Zoning ordinance not examined as to constitutionality in details, where general scope and dominant features found valid. *Euclid v. Realty Co.*..... 365

2. *Rule 25; Briefs.* Court may decline to consider points not presented in compliance with rule. *I. T. S. Co. v. Essex Co.*..... 429

3. *References to Master,* to be exceptional under equity Rules 46 and 59. *Los Angeles Co. v. James.*..... 701

4. *Id.* Applicable to patent cases. *Id.*

5. *Id.* *Congestion of Calendar,* may justify. *Id.*

6. *Findings.* Should be of ultimate facts, not evidential and subordinate matter. *Luckenbach S. S. Co. v. U. S.*..... 533

7. *Id.* *Request for,* must be tendered to Court of Claims as required by rule. *Id.*

8. *Id.* *Valuation Case.* Value of plant, reasonable rate of return, and net earnings should be found specifically by District Court. *McCardle v. Water Co.*..... 400

9. *Id.* Findings made by this Court where court below failed. *Id.*

10. *Id.* *Concurrent Findings,* of two courts below, that orders made by delegate of President were not induced by misrepresentation or lack of knowledge of material facts, not re-examined by this Court. *U. S. v. Chem. Foundation.*.... 1

11. *Appeal,* from Court of Claims pending motion for new trial and amended findings, cured by allowance after denial of motion. *Luckenbach S. S. Co. v. U. S.*..... 533

PROCEDURE—Continued.

Page

12. *Id.* Time for. Time does not run while motion for new trial and amended findings pending. *Id.*

PROHIBITION ACT. See **Constitutional Law**, VII, 15-19; VIII; Forfeiture, 4-5; Jurisdiction, III, 2; V; **Taxation**, I, 1.

1. *Implied Repeals*, result only from direct conflict. *U. S. v. Ford Coupe*..... 321
2. *Forfeiture of Vehicles*, under § 26 and Rev. Stats. § 3450; and rights of innocent owners. *Port Gardner Co. v. U. S.* 564
3. *Injunction Under § 22*, restraining occupancy of place where liquor is sold, not additional penalty to that prescribed by § 21, declaring such place common nuisance. *Murphy v. U. S.*..... 630
4. *Id.* Suit not Barred, by acquittal in prosecution under § 21. *Id.*
5. *Prescription of Liquor*. Restriction of one pint to same person within any period of ten days, appropriate legislation under Amendment. *Lambert v. Yellowley*..... 581
6. *Id.* Medicinal Value. Belief of physician as to, subordinate to powers of Congress under Amendment. *Id.*

PUBLIC OFFICERS. See **Trading with the Enemy Act**, 12.

PUBLIC UTILITIES. See **Constitutional Law**, VII, 4-9.

1. *Valuation*, of plant of water company for purpose of fixing rates; past, present, and future costs of construction; fluctuations of price levels; actual, not theoretical plant, "going concern value;" depreciation; rate of return. *McCardle v. Water Co.*..... 400
2. *Id.* Depreciation, testimony of experts based on examination of property outweighs theoretical calculations and estimates. *Id.*
3. *Rate of Return*. 7% reasonable. *Id.*
4. *Id.* Adequacy not tested by yield from investments in bonds plus brokerage. *Id.*
5. *Findings*, of value, reasonable return and net earnings should be specific. *Id.*
6. *Id.* Determination of these matters by this Court where District Court has failed. *Id.*

- RAILROADS.** See Interstate Commerce Acts. Page.
Special Tariff for Government, invalid and affords no constructive notice to Government agents. *Southern Pac. Co. v. U. S.* 445
- RATES.** See Constitutional Law, VII, 8-9; Interstate Commerce Acts, II, 5-8; Public Utilities, 3-4.
- RECEIVERS.** See Trading with the Enemy Act, 16.
- REFUND.** See Philippine Islands, 1.
- REMOVAL FROM OFFICE.** See Constitutional Law, II, 1-3, 5; Laches.
- REPEAL.** See Prohibition Act, 1.
- RES JUDICATA.** See Boundaries; Patents for Inventions; Prohibition Act, 4-5.
- SAFETY APPLIANCE ACT.** See Interstate Commerce Acts, II, 4.
- SALARY.** See Laches.
- SALES.** See Anti-Trust Acts, 5-10; Constitutional Law, II, 6; VII, 2; Trading with the Enemy Act, 4-14.
- SEAMEN.** See Admiralty, 1; Anti-Trust Acts, 1-4; Constitutional Law, IV, 6.
- SEIZURE.** See Constitutional Law, VII, 17; Forfeiture, 1-3; Jurisdiction, III, 2; Prohibition Act, 2; Trading with the Enemy Act, 3.
- SENATE.** See Constitutional Law, II, 1, 5.
- SENTENCE.** See Criminal Law, 2.
- SHARES.** See Life Insurance.
- SHIPS.** See Admiralty; Constitutional Law, IV, 6.
- STATES.** See Boundaries; Constitutional Law; Interstate Commerce Acts, II, 1-3.
- STATUTES.** See Constitutional Law, I, 3; Criminal Law, 1-2; Daylight Saving Acts; Jurisdiction, II, (4), 4; Prohibition Act, 1-6; Trading with the Enemy Act, 1.
 Consult titles indicative of subject matter, and table at beginning of volume.

- STAY.** See Jurisdiction, III, 6. Page
- STENOGRAPHIC FEES.** See Costs, 2.
- STOCK.** See Anti-Trust Acts, 13.
- STOCKHOLDERS.** See Life Insurance; Taxation, I, 3; II, 3.
- STRIKES.** See Constitutional Law, VII, 10-11.
No Absolute Right to Strike, conferred either by the Common Law or Fourteenth Amendment. *Dorchy v. Kansas*... 306
- SUITS IN ADMIRALTY ACT.** See Admiralty, 4.
- SURVEYS.** See Boundaries, 2.
- TARIFF.** See Philippine Islands; Railroads.
- TAXATION.** See Constitutional Law, VII, 2, 3, 6, 7; Criminal Law, 5-7; Jurisdiction, II, (4), 5-6. Life Insurance; Philippine Islands.
- I. Federal Taxation.**
1. *Illicit Liquor Subject to Tax*, though made in violation of Prohibition Act. *U. S. v. Ford Coupe*..... 321
 2. *Id.* Basic Tax, of \$2.20 per gallon not to be treated as penalty, but tax within meaning of § 3450 Rev. Stats., and being unpaid makes that section applicable. *Id.*
 3. "Invested Capital," within war excess profits provision of Act of 1917. Premiums paid to mutual life insurance company are included as "actual cash paid in for shares." *Duffy v. Mutual Ins. Co.*..... 613
 4. *Legal Reserve*, of mutual life insurance company, nature of. *Id.*
- II. State Taxation.**
1. *Personal Property*, in actual transit in interstate commerce, not subject to state tax. *Hughes Bros. Co. v. Minnesota* 469
 2. *Transfer by Power of Appointment*, of property not in State, not taxable. *Wachovia Bank v. Doughton*..... 567
 3. *United States Bonds*, income from, not taxable by State indirectly, by exempting income from them when held by corporations and taxing only so much of stockholders' dividends as corresponds to corporate income not assessed. *Miller v. Milwaukee*..... 713
- TESTIMONY.** See Public Utilities, 2.

TEXAS. See Boundaries, 1-4.

Page.

THREATS. See Criminal Law, 4.

TIME. See Jurisdiction, II, (3), 8.

TRADE MARKS. See Jurisdiction, II, (5).

TRADING WITH THE ENEMY ACT:

1. *Purpose*, includes promoting production of things useful in prosecution of war. *U. S. v. Chem. Foundation*..... 1
2. *Liberal Construction.* *Id.*
3. *Seizure, Use, or Appropriation*, of enemy property without compensation, within power of Congress. *Id.*
4. *Delegation of Power*, to determine how enemy property should be sold, by President under § 5a, constitutional. *Id.*
5. *Id. Order of President*, not invalidated by recital purporting to "vest" power in delegate rather than "act through" him. *Id.*
6. *Orders of President's Delegate*, authorizing private sale of enemy patents, valid exercise of President's power under § 12. *Id.*
7. *Id.* Presumption of official regularity supports orders of President and his delegate. *Id.*
8. *Ratification by President*, of sale of enemy patents by Custodian at private sale, presumed to have been made with knowledge of facts. *Id.*
9. *Disposition of Enemy Patents*, at private sale to corporation taking them over and holding them as trustee for American industries affected, within authority granted by the Act, to the President. *Id.*
10. *Id. Terms of Sale*, President's determination of, not an unconstitutional delegation of legislative power. *Id.*
11. *Alien Property Custodian.* Powers of trustee over property seized. *Id.*
12. *Sale by Fiduciary*, to himself or corporation of which he is the head. Rule forbidding inapplicable to sale of enemy patents to corporation, organized solely for public benefit, of which Custodian is president and other government officials are representatives. *Id.*
13. *Proceeds of Sale*, of enemy property. Enemy owners have no right in. *Id.*
14. *Id. Consideration.* Adequacy of not questionable by enemy owners. *Id.*

- TRADING WITH THE ENEMY ACT**—Continued. Page.
15. *Debt Owed Alien*, not allowable under § 9e of Act unless it “arose with reference to money or property” held by Custodian or Treasurer of United States. *De la Mettrie v. James* 731
16. *Id. Receiver Appointed to Collect Judgments*, on claims not so arising, in no better position than judgment creditors. *Id.*
- TRANSFERRED CAUSE.** See Jurisdiction, II, (1), 2.
- TRIAL.** See Constitutional Law; Jurisdiction, II, (2), 5. Procedure, 3-6.
- TRUSTEE.** See Trading with the Enemy Act, II, 12.
- UNITED STATES.** See Admiralty, 4; Claims; Contracts, 2-3; Costs; Forfeiture, 1-3; Taxation, II, 3.
- VALUATION.** See Public Utilities, 1-2.
- WAR.** See Trading with the Enemy Act.
- WATER COMPANY.** See Public Utilities, 1.
- WISCONSIN.** See Boundaries, 5.
- WITNESSES.** See Constitutional Law, VI; Public Utilities, 2.
- ZONING.** See Constitutional Law, VII, 12-13.